

DEPUTY CLERK OF COURT  
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MERCER COUNTY

**COLLIER, JACOB & MILLS, P.C.**

Corporate Park III  
580 Howard Avenue  
Somerset, New Jersey 08873  
(732) 560-7100

**In the Matter of**

**P.L. 2001, Chapter 362**

**SUPERIOR COURT OF NEW JERSEY**  
Law Division, Mercer County  
Docket No.:

**COMPLAINT FOR  
DECLARATORY JUDGMENT**

Richard J. Williams, acting in his capacity as Administrative Director of the Courts of the State of New Jersey, with offices at the Richard J. Hughes Justice Complex, 25 West Market Street, Trenton, New Jersey, brings this Complaint for Declaratory Judgment as follows:

1. Under Art. 6, §1, ¶1, of the New Jersey Constitution, the Judiciary is established as an independent branch of government, with power vested in the Supreme Court and the Superior Court.
2. Under Art. 6, §2, ¶3, of the New Jersey Constitution, the Supreme Court of New Jersey is granted authority to make rules governing the administration of all courts in the State.
3. Pursuant to Art. 6, §2, ¶3, the Constitution mandates that, in conjunction with its authority to make rules governing the administration of all courts in the State, the

authority of the Supreme Court includes the power to govern those public employees properly considered an integral part of the court system.

4. Pursuant to Art.6, §7, ¶1, the New Jersey Constitution mandates that the Chief Justice shall be the administrative head of the state court system.

5. Probation officers are an integral part of the court system and thus come within the exclusive regulatory control and superintendence of the Chief Justice and the Supreme Court.

6. On January 7, 2002, Acting Governor Donald DiFrancesco signed into law P.L. 2001, Chapter 362, a copy of which is annexed as Exhibit A.

7. P.L. 2001, Chapter 362, provides that there will be established within the Administrative Office of the Courts a "Probation Officer Community Safety Unit" ("Unit") consisting of no fewer than two hundred (200) probation officers, duly appointed pursuant to the provisions of N.J.S.A. 2A:168-5, with a minimum of five (5) members of the Unit assigned to each county.

8. P.L. 2001, Chapter 362, mandates that the members of this Unit "shall undergo" a course of law enforcement training as administered by the Police Training Commission, which training shall be subject to and in accordance with rules to be adopted by the Supreme Court.

9. P.L. 2001, Chapter 362, further mandates that members of this Unit shall have law enforcement authority, to "enforce the criminal laws" of New Jersey under

conditions, guidelines, and rules adopted by the Supreme Court. Prior to enactment of P.L. 2001, Chapter 362, members of probation staffs did not have these powers.

10. The members of this Unit are authorized to carry a firearm and are exempt from the provisions of N.J.S.A. 2C:39-6, upon successful completion of a firearms training course administered by the Police Training Commission.

11. Under Art. 5, §1, ¶11 of the New Jersey Constitution, law enforcement authority is exclusively vested within the Executive Branch of Government, and more particularly, within the power of the Governor, who in turn has delegated these powers to the Attorney General.

12. P.L. 2001, Chapter 362, by delegating law enforcement powers to employees of the Judicial Branch, places them under the dual supervision of the Supreme Court and the Attorney General.

13. P.L. 2001, Chapter 362, by mandating the establishment in the Judicial Branch of a Unit no less than 200 probation officers in the Administrative Office of the Courts and units of no less than 5 probation officers in each county, implements a program that affects the administration of the courts.

14. By mandating that the Judicial Branch establish a "Probation Officer Community Safety Unit" of no less than 200 probation officers within the Administrative Office of the Courts, by requiring assignment of a "Probation Officer Community Safety Unit" of no less than 5 probation officers to every county; and by the grant of law enforcement powers to said probation officers, P.L. 2001, Chapter 362 improperly

impinges on the powers granted in Art. 6, §1, ¶1, Art. 6, §2, ¶3, Art. 6, §7, ¶1, and Art. 5, §1, ¶12 of the New Jersey Constitution, and thereby violates the separation of powers clause of Art. 3, §1 of the New Jersey Constitution, which states that the powers of government shall be divided among the legislative, executive, and judicial branches, and that "[n]o person or persons belong to or constituting one branch shall exercise any of the powers properly belonging to either of the others . . ."

WHEREFORE, plaintiff seeks Declaratory Judgment, declaring that P.L. 2001, Chapter 362 is unconstitutional.

**CERTIFICATION PURSUANT TO R:4-5-1(b)(2)**

Plaintiff hereby certifies that there is no other related action pending in any court and that there is no related arbitration proceeding pending or contemplated.

COLLIER, JACOB & MILLS, P.C.  
Attorneys for Plaintiff

By: 

CYNTHIA M. JACOB  
A Director of the Firm

Dated: 

**CERTIFICATION PURSUANT TO R. 4:5-1(c)**

Cynthia M. Jacob is hereby designated as trial counsel in this matter.

COLLIER, JACOB & MILLS, P.C.  
Attorneys for Plaintiff

By: 

CYNTHIA M. JACOB  
A Director of the Firm

Dated: 4/23/02